

# **GUATEMALA 2021 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Guatemala is a multiparty constitutional republic. The country last held national and local elections in 2019. Voters elected Alejandro Eduardo Giammattei Falla of the We're Going for a Different Guatemala political party as president for a four-year term beginning January 2020. International observers considered the presidential election as generally free and fair.

The National Civil Police, which is overseen by the Ministry of Government and headed by a director general appointed by the minister, is responsible for law enforcement in the country. The Ministry of National Defense oversees the military, which focuses primarily on operations in defense of the country, but the government also used the army to support the National Civil Police in internal security operations, as permitted by the constitution. Civilian authorities at times did not maintain effective control over the security forces. There were credible reports that members of security forces committed some abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings; harsh and life-threatening prison conditions; arbitrary arrest and detention; politically motivated reprisals against individuals in another country; serious problems with the independence of the judiciary; serious restrictions on free expression and media, including violence, threats of violence, and unjustified arrests or prosecutions against journalists; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental and civil society organizations; serious government corruption; lack of investigation of and accountability for gender-based violence; crimes involving violence or threats of violence targeting persons with disabilities and members of indigenous groups; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; and use of forced labor, including child labor.

Impunity continued to be widespread. Corruption, concerted efforts by organized

criminal actors, and undermining of anticorruption institutions and the judiciary by corrupt political actors made meaningful investigation and prosecution of crimes, including corruption, involving public officials difficult.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports that the government or its agents committed arbitrary or unlawful killings. As of August 31, the Public Ministry, which is responsible for the prosecution of all criminal cases, as well as the Office of Professional Responsibility of the National Civil Police (PNC), reported five complaints of homicide by police, three more than in 2020. The PNC did not provide further information on any of these cases.

The nongovernmental organization (NGO) Unit for the Protection of Human Rights Defenders (UDEFEQUA) alleged that at least seven members of rural and indigenous activist groups were killed or died in disputed circumstances between January and November. Some of the killings appeared to be politically motivated, and all the cases remained under investigation at year's end. On September 20, indigenous rights defender Ramon Jimenez was found dead with gunshot and blunt weapon wounds in El Volcan, Jalapa. Jimenez worked for an indigenous collective that promotes indigenous rights and had clashed with local political and business leaders over his advocacy for fellow farmers and taxi drivers. As of November 29, a total of 10 activists or human rights defenders were killed.

The national government's prosecution of Jose Mauricio Rodriguez Sanchez continued. Rodriguez Sanchez, former intelligence chief under former president Rios Montt, was accused of genocide against the Maya Ixil community during the country's 36-year internal armed conflict (1960-1996). On February 21, an appellate court ruled against the appeal of the 2018 ruling that acquitted Rodriguez Sanchez of all crimes. On March 19, the Public Ministry brought the case before the Supreme Court, but as of November 29, a final resolution had not been issued.

In the case regarding Luis Enrique Garcia Mendoza, operations commander under

former president Rios Montt, Judge Jimmi Bremer of High-Risk Court C scheduled a hearing for October 11 to rule on whether there was sufficient evidence to bring the case to public trial against Garcia Mendoza on charges of genocide and crimes against humanity. The hearing was suspended and rescheduled for February 2022.

The Public Ministry continued investigation of another case for genocide against the Maya Ixil community from the last months of former president Romeo Lucas Garcia's government (1978-1982). Three high-ranking military officers, Cesar Octavio Noguera Argueta, Manuel Callejas y Callejas, and Benedicto Lucas Garcia, were charged in this case. The prosecution continued against Callejas and Lucas; Noguera died in November 2020. According to the ministry, the case involved a minimum of 32 massacres, 97 selected killings, 117 deaths due to forced displacement, 37 cases of sexual assault, and 80 cases of forced disappearance. Many victims were children. On August 30, Judge Miguel Angel Galvez ruled there was sufficient evidence to bring the case to public trial. As of November 29, the trial had not been scheduled. Callejas and Lucas were both previously convicted of serious crimes in the Molina Theissen case and were serving 58-year prison sentences.

## **b. Disappearance**

There were no reports of new disappearances by or on behalf of government authorities. The Public Ministry continued to investigate and prosecute cases of forced disappearances from the 1960-1996 internal armed conflict period, although at times Attorney General Maria Consuelo Porras stalled cases of genocide and disappearances from that period. There was a high-level nationwide debate spawned by congress' consideration of a bill that would grant amnesty for all atrocities committed during the civil war.

On May 27, a High-Risk Court judge issued 17 arrest warrants for individuals materially involved with, or who directly enforced, disappearances, torture, rape, and extrajudicial executions in 1983 and 1985, as documented in a leaked military file referred to as *Diario Militar*. The PNC initially detained 11 of the 17 individuals and detained a 12th when he voluntarily attended a related judicial proceeding. Five more individuals remained at large and were being sought by

victims' families. Initial judicial hearings to proceed to trial began in September after months of stalling by the defendants' lawyers and attempts to dismiss the judge.

The CREOMPAZ case, named after the Regional Center for UN Peacekeeping Training Institute where a mass burial site for disappeared persons was found, continued for former military officers indicted in 2017 on charges of forced disappearance and crimes against humanity during the 1960-1996 armed conflict. The delay in resolving several appeals and recusal motions filed in 2016 prevented the opening of a full trial. Byron Barrientos and Carlos Garavito remained in custody. Former congressman Edgar Justino Ovalle Maldonado, also charged in the case, remained in hiding after the Supreme Court lifted his immunity from prosecution in 2017.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, but there were cases of prison officials' negligence that allowed prisoners to experience violence and degrading conditions. The Office of the UN High Commissioner for Human Rights (OHCHR) noted that documentation and reporting mechanisms for torture and other cruel, inhuman, or degrading treatment or punishment remained weak, thereby hindering a full understanding of the prevalence of the problem. The OHCHR also noted that many official complaints cited unsafe and cramped conditions at Federico Mora National Hospital for Mental Health during the COVID-19 pandemic. Most of these complaints remained unresolved.

According to the Conduct in UN Field Missions online portal, there was one allegation submitted in February 2020 of sexual exploitation and abuse by a Guatemalan peacekeeper deployed to the UN Organization Stabilization Mission in the Democratic Republic of the Congo. The allegation involved rape of a child. Both the government and the United Nations launched investigations into the allegation, but as of November both inquiries remained pending.

Impunity within the PNC was not a widespread or systemic issue. Impunity from

prosecution for serious crimes within the PNC declined, with several high-profile convictions of PNC officers sentenced to imprisonment. Lesser crimes of negligence and bribery by officers continued, however, with few convictions. As of October more than 90 police officers were removed from the force based on bribery allegations. Most of the cases were documented in social media with videos taken by civilians. These removals formed part of PNC institutional policy to combat corruption. These instances appeared scattered and not related to military orders. Negligence by officers largely resulted from a lack of sufficient training. The law requires officers to hold at least a high school degree, but they often had much less, and some individuals had as little as six months of police training before being sent out on the streets.

In some areas impunity remained a significant problem in the PNC and the military. Impunity was evident in the Port, Airports, and Border Points Division (DIPAFRONT) of PNC forces dedicated to investigating crimes involving national borders, such as drug trafficking, smuggling, contraband and evasion of paying taxes by moving money outside the country. International law enforcement organizations reported private-sector actors paid some DIPAFRONT officers to avoid investigations into their operations. Government records did not include internal investigations in the PNC of these bribes.

Impunity for high-level officials from disciplinary or criminal prosecution existed. In several instances when PNC or Public Ministry investigators opened a case against high-level officials, the investigators were subsequently removed.

The PNC utilizes three mechanisms to identify and investigate abuses: an anonymous tip line using a landline telephone number, a tip line to receive complaints using a messaging application, and in-person complaints. The PNC Internal Affairs Division conducts internal surveillance of PNC officers' performance and follows a disciplinary process with an internal tribunal to decide cases. That division wiretaps criminal structures found to be working with corrupt PNC officers, but the unit was not authorized to investigate criminal structures within the PNC. The government's main mechanism to rid the PNC of corruption is to remove PNC officers suspected of these abuses, often without investigation or tribunal. The PNC has a unit devoted to criminal investigation of human rights violations, funded by donor countries, but the unit lacked political and material

support.

## **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening, with multiple instances of inmates killing other inmates. Sexual assault, inadequate sanitation, poor medical care, and significant overcrowding placed prisoners at significant risk.

**Physical Conditions:** Prison overcrowding was a problem. As of August 31, according to prison authorities, there were 24,989 inmates held in facilities designed to hold 6,997 persons. To ease prison overcrowding, the Rehabilitation Subdirectorate of the penitentiary system processed 3,680 early release requests from April to October, more than double the previous year's figure. Better coordination between sentencing judges and defense attorneys led to 1,398 inmates being granted early release by the courts during the same period.

As of December 10, there were 596 juvenile inmates in four traditional detention centers and the halfway house, which were designed for 557 inmates. Another 1,242 juvenile inmates were held in three new alternative measures facilities. Despite a reduction in overcrowding, there were 231 inmates in the Centro Juvenil de Privacion de Libertad para Varones juvenile detention facility, designed for 155 individuals. The courts had not sentenced approximately 18 percent of juvenile inmates held in detention.

Prison officials acknowledged safety and control problems, including escape attempts, gang fights, inability to control the flow of contraband goods into prisons, inmate possession of firearms and grenades, and the fabrication of weapons. Prisoners conducted criminal activity both inside and outside of prisons. Media reported that transnational criminal gangs and drug trafficking groups controlled major prisons. According to prison authorities, from January through August 31, at least 17 inmates died of unnatural causes while in prison. On August 11, after prison officials transferred Barrio 18 gang leaders from the overcrowded El Infiernito Prison to other facilities, in part to curtail their extortion practices and other criminal activity, gang members took 18 guards hostage, including the prison director. The hostages were released after officials returned the Barrio 18 leaders to El Infiernito. The adult penitentiary system added a K-9 unit to search for

narcotics and cell phones in its new correctional model as a measure to reduce criminal activity.

Physical conditions, including sanitation facilities, medical care, ventilation, temperature control, and lighting, were inadequate. Prisoners had difficulty obtaining potable water, complained of inadequate food, and often had to pay for additional sustenance. Illegal drug sales and use were widespread.

Media and NGOs reported female inmates faced physical and sexual abuse. Female inmates reported unnecessary body searches and verbal abuse by prison guards. Children younger than age four could live in prison with their mothers, but the penitentiary system provided inadequate food for young children, and many suffered from illness. Lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) rights groups stated that other prisoners often sexually assaulted LGBTQI+ individuals, and there were insufficient facilities to protect LGBTQI+ individuals in custody. NGOs claimed admittance procedures for LGBTQI+ prisoners were not implemented, noting particular concern regarding procedures for transgender individuals.

**Administration:** While the law requires authorities to permit prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions, authorities failed to investigate most allegations or to document the results of such investigations.

**Independent Monitoring:** The government permitted visits by local and international human rights groups, the Organization of American States, public defenders, and religious groups. The Office of the Human Rights Ombudsman (PDH) and the National Office for the Prevention of Torture, both independent government bodies responsible for ensuring that the rights and well-being of prisoners are respected, also periodically visited prison facilities.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but there were credible reports of extrajudicial arrests, illegal detentions, and denial of timely access to a magistrate and hearing as required by law. Suspects are entitled to challenge in court the legal

basis or arbitrary nature of their detention. There was no compensation for those ruled unlawfully detained.

### **Arrest Procedures and Treatment of Detainees**

The law requires presentation of a court-issued warrant to a suspect prior to arrest unless police apprehend a suspect while in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Authorities did not regularly respect this right. After arraigning suspects, the prosecutor generally has three months to complete the investigation if the defendant is in pretrial detention and six months to complete the investigation if the defendant is granted house arrest. The law prohibits the execution of warrants between 6 p.m. and 6 a.m. unless the government has declared a state of siege. Judges may order house arrest for some suspects. The law provides for access to lawyers and bail for most crimes. The government provides legal representation for indigent detainees, and detainees have access to family members. A judge has the discretion to determine whether bail is permissible for pretrial detainees.

**Arbitrary Arrest:** As of August 31, the PNC Office of Professional Responsibility had received 48 complaints of illegal detention by police, compared with two in 2020. Reports indicated police ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

On May 19, the PNC arrested Juan Francisco Foppa, former head of the Tax Administration Superintendency, for alleged falsification of documents when registering a new political party. Police followed him in an unmarked car – outside of permitted police procedures – stopped him, then arrested him, without cause or an arrest warrant. He was released on June 11 pending a hearing on the charges of irregularities related to the documents he submitted to register a political party. As of November there was no progress in this case. Domestic human rights and anticorruption activists cited his arrest as an example of the government’s pattern of harassing anticorruption advocates.

**Pretrial Detention:** As of October prison system records indicated 46 percent of prisoners were in pretrial detention, approximately the same percentage as in 2020, despite court closures due to COVID-19. The law establishes a one-year



maximum for pretrial detention, regardless of the stage of the criminal proceeding, but the court has the legal authority to extend pretrial detention without limits as necessary. Authorities regularly held detainees past their legal trial-or-release date. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to lengthy pretrial detention, delaying trials for months or years. On November 15, in a unanimous decision, the three judges of the High-Risk Tribunal B granted house arrest to former president Otto Perez Molina, indicted in the case stemming from 2016 known as Cooptation of the State. The court also stated that the change to house arrest would enter into effect on the condition that he pay a fine of 13 million quetzals (\$1.69 million). Molina's legal team argued against the fine, stating that the sum was unaffordable and was imposed to keep him in prison. Perez Molina has been in pretrial detention since 2015. According to press reports, although Perez Molina would have been able to pay the fine, he would not have been released from prison because he was also indicted in another case stemming from 2015, known as The Line, where the judge in charge, Miguel Angel Galvez, had repeatedly refused his requests for house arrest.

Observers noted the slow pace of investigations and lack of judicial resources hampered efforts to reduce pretrial detention and illegal incarceration. Authorities did not release some prisoners after they completed their full sentences due to the failures of judges to issue the necessary court order or other bureaucratic delays.

## **e. Denial of Fair Public Trial**

The law provides for an independent judiciary. The judicial system generally failed to provide fair or timely trials due to inefficiency, corruption, and intimidation of judges, prosecutors, and witnesses.

Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, including from government officials, such as harassment of prosecutors from the Office of the Special Prosecutor Against Impunity and judges from the High-Risk Court. On September 29, High-Risk Court judge Erika Aifan posted a video on social media that detailed how government employees from outside her office placed staff in her court office who recorded her private comments and leaked confidential files from her cases. From

January through August 31, the Special Prosecutor's Office for Crimes against Judicial Workers and Unionists received 69 complaints of threats or aggression against workers in the judicial branch and 53 complaints against prounion activists, for a total of 122 complaints, compared with 194 in 2020.

On October 11, Attorney General Porras announced the reassignment of lead human rights prosecutor Hilda Pineda to an office that investigates crimes against tourists. Pineda was known for aggressively pursuing prosecution of human rights abuses by the military during the civil war, including genocide against the Maya Ixil community and the Diario Militar case. Civil society decried the move as politically motivated and expressed concern the move would weaken the prosecutions of these cases.

Since May prosecutors and judges associated with the Diario Militar case reported increased threats and surveillance. The Human Rights Prosecutor's Office requested security support from the Public Ministry, but as of November none had been provided.

On April 13, the Congressional Executive Board swore in seven of the 10 new Constitutional Court members for the 2021-2026 term starting on April 14. Congress refused to seat re-elected independent incumbent Constitutional Court magistrate Gloria Porras, citing a provisional injunction. In view of her consequent loss of immunity after not being sworn in for a new term on the Constitutional Court, Porras departed the country on April 14 and remained abroad as of November 29. Civil society expressed concern that as of November the court had consistently ruled in favor of the governing coalition.

The selection process for the election by congress of 13 Supreme Court and 135 appellate court magistrates continued largely unresolved. As of August 31, congress successfully completed the voting procedure for only one candidate for the appellate court in a total of 270 candidates. The sitting Supreme Court and 269 appellate court judges remained in their positions. In 2019 the Constitutional Court halted the selection process for Supreme Court and appellate court magistrates, ruling that formal evaluation procedures were not followed within the selection committees after a process that suffered widespread manipulation of selection committees by politicians, judicial operators, and other influential

citizens. In February 2020 Public Ministry investigations found that while in prison on corruption charges, Gustavo Alejos, former chief of staff under then president Alvaro Colom, accepted at least 20 visits from officials associated with the selection process in his hospital ward in the days before the selection committees provided their lists. The Constitutional Court issued a final ruling in May 2020 requiring removal of candidates associated with Gustavo Alejos and a voice vote for each position in congress, but as of November congress had not complied with the ruling.

## **Trial Procedures**

The constitution provides for the right to a fair and public trial, the presumption of innocence, the defendant's right to be present at trial, and the right to legal counsel in a timely manner. The law requires the government to provide attorneys for defendants facing criminal charges if the defendant cannot find or afford an attorney. Defendants and their attorneys may confront adverse witnesses and present their own witnesses and evidence. The law provides for abbreviated processing (similar to plea bargaining) for minor offenses with short-term prison sentences and the right of appeal. The Constitutional Court left in place the temporary suspension of the 2019 plea bargaining law. The law was suspended in 2020 for potentially violating due process. Three-judge panels render verdicts. The law provides for oral trials and mandates free language interpretation for those needing it; however, interpreters were not always available, including for indigenous victims in the High-Risk courts. Officials conduct trials in Spanish, the official language, although many citizens speak only one of the 23 officially recognized indigenous languages.

The Public Ministry, acting independently of the executive branch but dependent on funding approved by congress, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as plaintiffs.

Even though courts reopened in June 2020 after COVID-19 outbreaks closed courts earlier that year, the judicial system reportedly canceled 68,751 hearings through August. The causes of these cancellations included missed court dates by prosecutors and defense attorneys due to sicknesses related to COVID-19, staffing

and logistical constraints that prevented the transportation of preventively detained inmates from attending hearings, and the refusal by many court officials, many of whom were advanced in age, to attend hearings in fear of contracting COVID-19. Although the courts were working through the 2020 closure backlog, the cancellation of additional hearings meant conviction rates for most crimes were lower in 2021 than in 2020.

International and domestic observers considered the number of judges insufficient. Lack of sufficient personnel, training, and evidence hampered Public Ministry prosecutors' ability to bring cases to trial.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Politically Motivated Reprisal Against Individuals Located Outside the Country**

On May 14, the newly installed Constitutional Court announced it had received a complaint against the U.S.-based former International Commission against Impunity in Guatemala attorney Alfonso Carrillo via an amicus curiae brief and that the court had referred the case to the Public Ministry for a criminal investigation. The brief, presented by Ricardo Mendez Ruiz, director of the Foundation Against Terrorism, stated that Carrillo violated the civil and commercial procedure code by filing legal actions and injunctions against recent Constitutional Court magistrates' nominations. On May 18, civil society organizations, including Justicia Ya and UDEFEGUA, released a statement that criticized the court's action on social media accusing the court of protecting a corrupt group of state actors.

### **Threats, Harassment, Surveillance, and Coercion**

Juan Francisco Sandoval, former head of the Office of the Special Prosecutor Against Impunity, reported that police interviewed his parents and entered their home looking for him even though his whereabouts in the United States had been widely reported.

On September 29, High-Risk Court judge Erika Aifan claimed through her social media account that for years officials implicated in cases she presided over monitored her by placing staff into her courtroom and office, and that these workers often leaked details of important cases to those accused of corruption.

Prosecutors from the Public Ministry's Human Rights Department who were prosecuting civil war era war crime cases against former military members reported that after the May arrests connected to the Diario Militar case, they were followed by unmarked vans and experienced threatening gestures from other vehicles.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations have access to administrative and judicial remedies to submit lawsuits seeking damages for, or cessation of, a human rights violation or other alleged wrongs. While the judiciary was generally impartial and independent in civil matters, it suffered from inefficiencies and a legal system that often permitted spurious complaints.

### **Property Seizure and Restitution**

Negotiations between the government and families affected by the construction of the Chixoy hydroelectric dam continued. As of November the government had paid approximately 99 percent of the 200 million quetzals (\$26 million) in individual reparations to families affected by the dam. Fifteen cases of reparations remained unresolved. During the dam's construction from 1975 to 1985, more than 400 individuals died, and thousands were displaced.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and the government generally respected these prohibitions, but there were credible reports of harassment of the families of officials. A prosecutor reported that in October, after her office removed her from a high-profile corruption case, unknown individuals in unmarked cars photographed her mother and sister outside their houses on several occasions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The law provides for freedom of expression, including for members of the press and other media, but the government did not always respect this right. The intimidation of journalists increased during the year and resulted in significant self-censorship.

**Freedom of Expression:** Many journalists reported being followed or having to flee the country after publishing work that was critical of influential citizens. In August Marvin del Cid, an independent journalist, left the country after receiving threats due to the publication of a book he wrote exposing alleged improprieties in President Giammattei's campaign funds in the 2019 presidential election.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** Independent media were active and expressed a wide variety of views. Nonetheless, reporters covering organized crime, including its links to corrupt public officials, acknowledged practicing self-censorship due to the danger investigative journalism created for them and their families.

Lower advertising revenue, whether due to the COVID-19 pandemic or as pressure from companies against reports of corruption, resulted in media outlets becoming less independent.

**Violence and Harassment:** Members of the press reported receiving pressure, threats, and retribution from public officials and criminal organizations regarding the content of their reporting. Online attacks against independent journalists and media outlets continued throughout the year. These included hacking journalists' private social media accounts, publishing stolen or falsified personal information, and conducting apparent coordinated attempts to undermine specific journalists and the press.

Observers noted that net centers, or collections of social media accounts operating from office buildings associated with government information sources, increased activity creating fake social media accounts to criticize and defame journalists.

On September 7, government prosecutors dropped all charges against Anastasia Mejia. In August 2020 the PNC arrested Mejia, the director of a local television and radio service, following her live radio and video reporting of a protest at the Joyabaj mayor's office that resulted in damage to municipal property.

As of November the case against former congressman Julio Antonio Juarez Ramirez, accused of ordering the 2015 killings of two journalists in Suchitepequez, continued being litigated.

The Prosecutor's Office for Crimes against Journalists reported 60 complaints of attacks or threats against journalists from January to August, compared with 73 during the same period of 2020, and no homicides, compared with one reported in the same period of 2020.

**Nongovernmental Impact:** Organized crime exerted influence over media outlets and reporters, frequently threatening individuals for reporting on criminal activities.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Human rights defenders, journalists, as well as judges and lawyers on high-profile cases, reported social media attacks, including the hacking of their private social media accounts, publishing of stolen or falsified personal information, publishing of photographic surveillance of them and family members, and online defamation and hate speech. The government took little action to protect these individuals.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, but the government did not always respect these rights. In May the Constitutional

Court allowed a controversial NGO law to go into effect, which many NGOs and international observers claimed could be used to restrict their right to freedom of association. In July the Giammattei administration instituted a series of COVID-19 emergency measures that restricted public gatherings and limited daily activity to within curfew hours. Some critics alleged these states of calamity were attempts by the administration to suppress protests.

On October 4 in El Estor, Izabal, a group of 20 Mayan Q'eqchi' activists protested the continued operation of the Fenix mine and exclusion of the group from the court-ordered consultations over the operation of that mine. On October 23, more than 700 police officers fired tear gas at the crowd of approximately 120 protesters. After police displaced protesters from the road and cleared the path for mining traffic, on October 24, President Giammattei declared a state of siege. Congress approved the state of siege two days later and imposed a curfew from 6 p.m. to 6 a.m. In the five days following the declaration, the PNC conducted 26 raids and arrested 15 persons for crimes including starting wildfires, possession of drugs, and threatening violence. Some activists claimed police raided the homes of suspected protesters and local journalists who had been critical of the government reaction.

On July 23, Attorney General Maria Consuelo Porras fired the head of the Special Prosecutor's Office Against Impunity, Juan Francisco Sandoval, who was investigating accusations of widespread corruption in the Giammattei administration (see section 4). The firing led to protests throughout the country, with protesters asking for the resignation of the president and the attorney general. The government generally respected the protesters' rights, although there were some reports of excessive use of force against protesters by government forces.

## **Freedom of Association**

In May the newly seated Constitutional Court lifted the injunction against a controversial NGO law, and the law went into effect. Under the law NGOs must register with up to half a dozen ministries, report international donations and income to the tax authority, and reregister any changes in function by December. Many internationally funded NGOs expressed concern that complex and arbitrary regulations outlined in the law potentially give the government the ability to close NGOs at will. Civil society groups continued to oppose the NGO law, saying it



could be used to shutter organizations that oppose the current administration. Some NGOs claimed the law also increased their operating costs, since they had to hire lawyers to prepare a defense in case the government tried to close them down.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/international-religious-freedom-reports/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights. States of siege or prevention place limits on freedom of movement. Therefore, at certain points for up to 30 days, citizens in the affected areas did not have this right, such as in El Estor, Izabal, where on October 24, President Giammattei declared, and congress approved, a state of siege for 30 days that imposed a curfew from 6 p.m. to 6 a.m., limited large groups of persons from amassing, and allowed police to detain and interrogate those suspected of disturbing the peace with suspension of some due process.

In support of public health, the government enacted curfews, limits to sale of alcohol, and limits to public gatherings throughout the year as part of the states of calamity and prevention declared in response to COVID-19. President Giammattei declared a state of public calamity on August 14, which included a 10 p.m. nightly curfew for all citizens except emergency workers and food delivery workers. On August 23, congress rejected the widely unpopular declaration.

### **e. Status and Treatment of Internally Displaced Persons**

The government does not officially recognize the existence of internally displaced persons (IDPs) within its borders, except for those displaced by climate change and natural disasters. Organizations that monitor and support IDPs stated this lack of recognition stifled efforts to manage and address the movement of persons within the country displaced due to violence, among other factors, because official statistics did not exist for IDPs. The government indicated a more open posture to discussing the issue, framed as a matter of vulnerable or “at-risk” communities, but

critics claimed this definition did not address the full range of causes and effects of the movement of IDPs. Women, youth, and LGBTQI+ individuals, as well as indigenous populations, remained at heightened risk of displacement.

## **f. Protection of Refugees**

The government made efforts, with significant support from the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for receiving and adjudicating asylum claims to grant refugee status to qualifying individuals. UNHCR reported that identification and referral mechanisms for potential asylum seekers were inadequate and requirements to travel to Guatemala City for parts of the process continued to limit access. Despite regulations published in 2019, there continued to be gaps and lack of clarity in the procedures for implementing the legal framework.

Asylum claims are processed by the Department of Refugee Status Determination of the Guatemalan Migration Institute. Recommendations on recognition are formulated by the National Commission for Refugees (CONARE), which is composed of delegates from four government entities: the Ministry of Labor and Social Security, Ministry of Foreign Affairs, Ministry of Interior, and Guatemalan Migration Institute. The National Migration Authority approves or denies asylum requests based on the recommendations made by CONARE. This interministerial process contributed to major delays on final case decisions and an increased backlog. With the intervention of central authorities and the PDH, some individuals in need of protection were able to access the asylum process, although only 29 of the 486 cases filed in 2020 were adjudicated as of October. CONARE was still processing cases from 2019 and 2020 and had yet to assess cases filed during the year, according to observers familiar with the process.

**Access to Basic Services:** Documentation needed to access government services, including health care, remained expensive and time-consuming to complete.

Provisional Status, which must be renewed every 30 days, conferred a legal status to individuals who had undergone an interview as part of an application for refugee status and were awaiting a decision on their recognition as a refugee. Temporary Residence was accessible to recognized refugees, but the total cost was more than 3,000 quetzals (\$388). Access to education for refugees was difficult due to the country's onerous requirements for access to formal education, including documentation from the country of origin, although a mechanism existed to allow asylum seekers who might not have full documentation of prior education to be integrated into the education system. Adult asylum seekers often could not obtain accreditation of their foreign university degrees to practice their profession.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage for those ages 18 and older. Members of the armed forces, police, and incarcerated individuals are not eligible to vote.

#### **Elections and Political Participation**

**Recent Elections:** The Organization of American States and other international observers found some irregularities in the electoral process for the last national elections in 2019, but none was significant enough to discredit the legitimacy and validity of the elections. President Alejandro Giammattei and the elected congressional deputies took office in January 2020 without disturbance. The Public Ministry continued to investigate allegations of illicit campaign financing in the 2015 elections, including a case against Sandra Torres and the National Unity of Hope Party. A substitute judge in High-Risk Court A granted Sandra Torres house arrest during her pretrial detention; on August 30, a three-judge appellate panel granted her permission to participate in political activities with her party while under house arrest.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, and they did, to an extent, participate. Traditional and cultural practices, discrimination, institutional bias, and difficulty traveling to polling places in rural

areas, however, limited participation of women and members of indigenous groups. There were two women serving in the 13-member cabinet, 31 in the 160-member congress, and nine among the 340 municipal mayors. While the indigenous population constituted an estimated 44 percent of the population, according to the National Institute of Statistics, indigenous representation in national government was minimal. There was one indigenous member on the Constitutional Court and one on the Supreme Court. There were approximately 16 indigenous members of congress, of whom four were women. Indigenous individuals composed approximately one-fourth (90 of 340) of the mayoral seats elected in 2019.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, but officials frequently engaged in corrupt practices with impunity. Despite numerous allegations of corruption among the legislative and executive branches of the government, few high-profile cases were prosecuted during the year, and anticorruption efforts within the judiciary stalled. Prominent anticorruption prosecutors were fired or removed from significant cases, and corrupt actors threatened independent judges by filing complaints based on spurious charges to strip them of immunity to prosecution.

On July 23, Attorney General Porras abruptly fired the head of the Office of the Special Prosecutor Against Impunity, Juan Francisco Sandoval. On the evening of July 23, Sandoval fled the country after he held a press conference at the Office of the Human Rights Ombudsman, in which he implicated several sitting and former government officials in corruption cases. Over the following weeks, protesters demonstrated in support of Sandoval and called for the attorney general's removal. On September 2, a criminal court issued an arrest warrant for Sandoval for the crimes of obstruction of justice and failure in performance of official duties. On November 30, the Public Ministry announced a new set of charges against Sandoval including abuse of authority, fraud, and conspiracy related to deals Sandoval allegedly made with cooperating witnesses in corruption cases. As of December 16, Sandoval remained out of the country.

Threats against independent judges also posed a threat to anticorruption efforts. Judges who presided over high-profile criminal cases faced continued efforts to strip them of their immunity, which would expose them to potential prosecution and retaliation for their judicial rulings.

The Presidential Commission Against Corruption serves the administrative function of introducing reforms that promote transparency, but it lacked both the resources and the mandate to actively investigate corruption cases. During the year civil society representatives criticized the commission for a perceived lack of independence.

**Corruption:** As of November former communications minister Jose Luis Benito remained a fugitive, and authorities requested an Interpol Red Notice for his arrest. In October 2020 the Special Prosecutor's Office Against Impunity seized approximately 122 million quetzals (\$15.9 million) in cash found in 22 suitcases inside Benito's home in the city of Antigua, and the Public Ministry subsequently issued an arrest warrant for Benito on charges of money laundering.

On May 12, the special prosecutor against impunity presented formal charges against former member of congress Alejandro Sinibaldi in the Transurbano case. Sinibaldi had originally been expected to cooperate as a witness in the prosecution of the case but was eventually formally charged with money laundering and other crimes. The Transurbano case involving former president Alvaro Colom, 10 of his ministers, and former chief of staff Gustavo Alejos Cambara, involved a 2008 agreement signed by the ministers that allowed the urban bus company to form anonymous corporations and begin siphoning funds from a prepaid fare program. Sinibaldi was previously implicated in the Odebrecht case, involving bribes allegedly paid to himself and former presidential candidate Manuel Baldizon; the Construction and Corruption case, in which Sinibaldi was accused of money laundering and paying bribes while communications minister from 2012 to 2014; and a case of alleged illegal campaign financing in 2011.

The case known as Cooptation of the State continued against former president Otto Perez Molina, former vice president Roxana Baldetti and her chief of staff Juan Carlos Monzon, and dozens of coconspirators for illegal campaign financing, money laundering, and illegal payments for public contracts, among other charges.

Several injunctions filed by the multiple defendants continued to stall the case. On May 19, the government dropped some of the charges levied against Perez Molina, including one linked to money laundering. On the same day, in a move that was widely criticized by domestic and international civil society, the government arrested Juan Francisco Solorzano Foppa, a former investigator on the original case that brought Perez Molina's case to trial, and Anibal Arguello, a lawyer who had worked for the UN-backed International Commission Against Impunity in Guatemala and who was a witness in the main case against Perez Molina. As of December both Foppa and Arguello remained under house arrest.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Many of these groups, however, were the subject of harassment and threats, and they faced pressure and attacks from government actors.

Several NGOs, human rights workers, and trade unionists reported threats, violence, and intimidation. UDEFEGUA reported five killings of human rights defenders from January through June and 551 attacks against human rights defenders in the same period, compared with 677 attacks in the same period in 2020. NGOs asserted the government did little to investigate the reports or prevent further incidents.

NGOs also reported the government, fringe groups, and private entities used threats of legal action as a form of intimidation. According to UDEFEGUA, from January to June, there were at least 26 new unfounded judicial cases filed against human rights defenders, compared with 13 for the same period in 2020. As of November the Foundation Against Terrorism, led by Ricardo Mendez Ruiz, had filed 31 new cases, both civil and criminal, against human rights and transitional justice NGOs, human rights defenders, and judicial workers in addition to more than 100 cases filed in 2020.

**The United Nations or Other International Bodies:** On September 13, the government renewed the OHCHR mandate for one year. In 2020 the government reduced the OHCHR's three-year mandate to one-year increments.

**Government Human Rights Bodies:** The PDH monitors the human rights set forth in the constitution and reports to congress. NGOs generally considered the PDH to be an effective institution but with limitations in rural areas. While the ombudsman attempted to operate independently and issued public reports and recommendations as in past years, because congress withheld part of the funding for the office, the institution was less effective than in previous years. In March the Constitutional Court ordered that congress disburse the allocated funds to the ombudsman. Congress did not comply with this order until November 24. The Congressional Committee on Human Rights drafts and provides guidance on legislation regarding human rights. The law requires all political parties represented in congress to have a representative on the committee. Some NGOs did not consider the committee to be an effective forum for human rights promotion and protection.

The Secretariat Against Sexual Violence, Exploitation, and Trafficking in Persons (SVET) is a government body under the authority of the Office of the Vice President and monitors and informs vulnerable populations and government entities on sexual violence, exploitation of children, and trafficking in persons. SVET reported congress withheld its funds by exercising line-item approval for all its projects.

The President's Commission on Human Rights formulates and promotes human rights policy, represents the country in international human rights forums, enacts international recommendations on human rights, and leads coordination of police protection for human rights and labor activists.

In July 2020 President Giammattei announced a new 11-member, ministerial-level Presidential Commission for Peace and Human Rights to replace the President's Commission, the Secretariat for Peace (created to enact government commitments in the 1996 Peace Accords), and the Secretariat of Agricultural Affairs, which mediates land conflict. Starting in August 2020 the three governmental entities replaced by the Presidential Commission for Peace and Human Rights had 90 days

to transfer their files to existing institutions such as the Office of the Human Rights Ombudsman and the Secretariat for Planning and Programming. As of November this had not been completed. Civil society expressed concern that dissolving the President's Commission could lead to a lack of mechanisms for enacting the recommendations of international forums, such as the Inter-American Commission on Human Rights, and could result in restarting the process for creating a national plan for the protection of human rights defenders. As of November it was not clear which government entity would continue negotiations for Chixoy reparations (see section 1.e.).

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of men or women, including spousal rape, and sets penalties between five and 50 years in prison. Police had minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively. Rape and other sexual offenses remained serious problems.

The government took steps to combat femicide and violence against women. The judiciary continued to operate a 24-hour court in Guatemala City to offer services related to violence directed toward women, including sexual assault, exploitation, and trafficking of women and children. The judiciary also operated specialized courts for violence against women throughout the country, but not in every department. The Public Ministry maintained a 24-hour victim service center to provide medical, psychosocial, and legal support to victims, including restraining orders for their immediate protection. The ministry also maintained a national alert system for finding disappeared women. Sexual violence remained widespread despite these advances. The ministry reported that 6,307 women were victims of rape from January to August, compared with 3,684 women in all of 2020.

The law establishes penalties for femicide of 25 to 50 years in prison without the possibility of reducing the sentence; however, femicide remained a significant problem. The NGO Mutual Support Group reported that from January to August, 395 women were killed, compared with 302 in the same period in 2020.



According to judicial system data, no one was convicted of femicide as of November, compared with 34 in the same period in 2020. Mutual Support Group pointed to the lack of convictions as partly due to a judicial backlog stemming from COVID-19 closures in 2020 and partly to the judicial branch's lack of attention to these crimes.

Violence against women, including sexual and domestic violence, remained widespread and serious. The law establishes penalties of five to eight years in prison for physical, economic, and psychological violence committed against women due to their gender. The Public Ministry estimated that reports of domestic violence decreased by more than 75 percent compared with the previous year, noting 410 cases of "intrafamily violence" in the first six months, perhaps due to fewer stay-at-home orders issued compared with 2020. The Public Ministry recorded 44,229 instances of violence against women from January to August, compared with 39,399 in the same period of 2020. The ministry noted that the judicial system convicted 1,118 perpetrators of violence against women from January to August, compared with 424 in the same period of 2020.

The case against Francisco Cuxum Alvarado and seven codefendants remained in the evidence-gathering phase. In January 2020 PNC officers arrested Cuxum Alvarado immediately after his deportation from the United States. The Public Ministry indicted him on charges of crimes against humanity and aggravated sexual assault against 36 Maya Achi women in Rabinal between 1981 and 1985. The Public Ministry indicted seven other defendants, former members of the civil defense patrols, on the same charges in 2018.

**Sexual Harassment:** Although several laws refer to sexual harassment, no single law, including laws against sexual violence, addresses it directly. Human rights organizations reported sexual harassment was widespread.

Women with disabilities and members of the LGBTQI+ community with disabilities remained at greater risk of being victims of continued sexual violence. Most persons with disabilities, especially women, did not report situations of violence and abuse because the reporting processes are complex and discriminate against them, among other reasons.

**Reproductive Rights:** Forced sterilization was purportedly common in persons with disabilities but reporting on these abuses was rare. There were no official reports during the year of coerced abortion or involuntary sterilization on the part of government authorities.

Cultural, geographic, and linguistic barriers hampered access to reproductive health care including contraceptives, particularly for indigenous women in rural areas, where contraceptives were also least likely to be available locally. The prevalence of modern contraceptive use remained low among indigenous women compared with all other women, and a lack of culturally sensitive reproductive and maternal health-care service providers deterred some indigenous women from accessing reproductive health care services.

In July the government approved the *Policy for the Protection of Life and the Institutionality of the Family*, an executive policy that sets forth policy principles, including a definition of family as a nuclear family with one male and one female parent, and a definition of life as starting at conception.

The government provided survivors of sexual violence who sought medical attention some services through the Model for Integrated Attention for Women Victims of Violence (MAINA) and the Model of Integrated Attention for Children and Adolescents (MAIMI) systems, administered by the Ministry of Public Health. The MAINA and MAIMI models provided victims with access to emergency contraceptives and antiviral medicines to prevent sexually transmitted diseases and unwanted pregnancy resulting from rape in addition to some justice services. Some hospitals classified sexual assault as a medical emergency; however, many survivors did not seek medical care due to cultural and geographic barriers. Authorities within the justice system commented that on occasion some hospital clinics did not have the required pills in stock to protect rape victims against sexually transmitted diseases or pregnancy.

According to a report by the Ministry of Health published in 2020, the maternal mortality rate among indigenous communities was 156 per 100,000 live births, compared with the national average of 108 per 100,000 live births.

One-half of all the maternal deaths occurred in four departments in the northwest

of the country (Huehuetenango, San Marcos, Quiche, and Alta Verapaz), most of them in rural and dispersed areas with high rates of malnutrition, poverty, and concentrated populations of indigenous persons.

Most maternal deaths were due to preventable causes – hemorrhages (47 percent), hypertension (23 percent), infections (14 percent), and unsafe abortion (8 percent). Factors such as the lack of medical services available in indigenous languages and lack of providers and equipment in remote areas also played a role in these deaths. During the COVID-19 pandemic in 2020, prenatal care decreased by 16 percent.

The NGO The Reproductive and Sexual Health Observatory reported that from January to October, there were 60,464 births to mothers who were adolescents: 58,820 births to mothers between ages 15 and 19 and 1,644 to mothers between ages 10 and 14.

Access to menstrual products and the lack of separate boys' and girls' bathrooms in some rural schools continued to negatively affect adolescent girls' access to education in rural areas of the country.

**Discrimination:** Although the constitution establishes the principle of gender equality, stating that all individuals are equal and have the same rights and that men and women enjoy the same opportunities and responsibilities, women, and particularly indigenous women, faced discrimination and were less likely to hold management positions. The law establishes equal pay for women and men in government offices by not allowing differences in pay based on “personal identity” but does not prohibit discrimination based on gender or prohibit sexual harassment in the workplace in the private sector. There are laws that restrict women from working in certain sectors, including in jobs deemed morally inappropriate. The law does not prohibit discrimination in access to credit based on gender.

The law provides for equality between men and women in divorce to both provide for care of the children and responsibility to provide financial and housing assistance to the children's caretakers, who are often the women, both during and after the divorce. The PDH reported that divorce proceedings had improved in the last 20 years with regards to fairness between men and women. Observers, however, reported that men availed themselves of procedural delays involved with

complications for women who must register children from previous relationships, thereby creating obstacles to child support for women in those cases.

## **Systemic Racial or Ethnic Violence and Discrimination**

There are no laws, policies, or state programs that specifically contribute to the reduction of racism, according to international human rights organizations. The constitution provides for protections against discrimination, and the law provides for a penalty of one to three years' imprisonment and a fine of up to 3,000 quetzals (\$388) for acts of discrimination. Other legal and material efforts to combat discrimination include litigation instructions for discrimination crimes by the Public Ministry.

The government generally did not effectively enforce laws against discrimination. Of the 12 agreements that make up the Peace Accords signed in 1996, the two in which the government had made the least progress in implementing were those specifically dealing with matters related to indigenous persons: the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Socioeconomic Aspects and Agrarian Issues.

According to the OHCHR, there was a significant increase in attacks and incidents of defamation and intimidation against indigenous defenders of indigenous land, territory rights, and natural resources.

Indigenous spiritual leaders, such as Mayan spiritual guide Jesus Choc Yat in Quiche, were attacked or killed.

The executive branch lacked a coordinated approach to address poverty and unemployment concentrated mainly in indigenous and Afrodescendant communities, although there were some government programs directed at the needs of these populations. In January the Cabinet for Social Development officially introduced an executive policy to support the integration of midwives into the health-care system. The policy promotes the inclusion of midwives in health-care institutions, which international human rights organizations noted should help fight discrimination against indigenous persons' cultural practices.

## Indigenous Peoples

The government's National Institute of Statistics estimated indigenous persons from 24 ethnic groups made up 44 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote the lifestyles, customs, traditions, social organizations, and manner of dress of indigenous persons. The government does not, however, recognize particular indigenous groups as having a special legal status provided by national law. The government is party to the International Labor Organization convention 169 (ILO 169) on Indigenous Peoples' Rights, which stipulates that the government must consult with indigenous groups prior to implementing large infrastructure projects in indigenous territories. Observers indicated the government did not always consult with all affected parties and indigenous leaders, and activists regularly reported being harassed and threatened for their work. On January 16, an unnamed assailant shot Xinka leader and activist Julio David Gonzalez Arango at his home. Gonzalez Arango, a public leader for the Xinka people in the case of the Pan American Silver Escobal mine, later recovered.

Indigenous lands were not effectively demarcated, making the legal recognition of titles to the land problematic. Indigenous representatives claimed actors in several regional development projects failed to consult meaningfully with local communities. In some cases indigenous communities were not able to participate in decisions affecting the exploitation of resources in their communities, including energy, minerals, timber, rivers, or other natural resources. They also lacked effective mechanisms for dialogue with the state to resolve conflicts.

The Russian conglomerate Solway, which bought the Fenix nickel mine in Izabal Department in 2014, continued to stand accused of violence against indigenous activists and illegal extraction of undeclared materials. On December 10, the government declared the successful conclusion of the ILO 169 consultations with those indigenous groups they designated as participants in the process. The community's self-determined governance structure, the Ancestral Council of Q'eqchi Peoples, was excluded from the consultations, and critics claimed that the government purposely neglected to include the group. On October 24, President Giammattei declared a 30-day state of siege in El Estor after dozens of protesters, including environmental defenders and indigenous activists, blocked coal trucks

from accessing the mine and clashed with PNC forces who attempted to clear the road for mining traffic. According to local observers present at the scene, a police force outnumbering protesters by a ratio of seven to one broke up the protest and allowed mining traffic to continue along the road.

Between May 21 and November 26, the Ministry of Energy and Mines held four court-ordered ILO-169 preconsultations with Xinka authorities to discuss the Pan American Silver mine (formerly San Rafael) at Escobal. Another three meetings are planned for early 2022 to finish the preconsultation process. In 2018 the Constitutional Court ordered the Ministry of Energy and Mines to hold ILO Convention 169-compliant consultations with Xinka populations and upheld the suspension of the operating license of the San Rafael Mine until after conclusion of the consultations.

Discrimination against indigenous cultures and customs existed in the health-care system. Civil society organizations of indigenous midwives in rural areas reported that their services were not recognized by government health-care institutions under the Ministry of Public Health such as Centers of Integral Maternal Care. This lack of recognition of indigenous midwives and the vital role they play as authorities, leaders, and family members in rural indigenous communities created a cleavage between the government and indigenous communities.

Indigenous communities were underrepresented in national politics and remained largely outside the political, economic, social, and cultural mainstream. This was mainly due to limited educational opportunities (contrary to law), limited communication regarding their rights, and pervasive discrimination. Government agencies dedicated to supporting indigenous rights lacked political support. These factors contributed to disproportionate poverty and malnutrition among most indigenous populations.

## **Children**

**Birth Registration:** Children derive citizenship by birth within the country or from their parents. UNICEF described low birth registration as a “serious problem,” and UNHCR reported problems in registering births were especially acute in indigenous communities due to inadequate government registration and

documentation systems. Lack of registration restricted children's access to some public services and created conditions that could lead to statelessness.

**Education:** While primary education is free and compulsory through age 15, access was limited in many rural areas; education through the secondary level is not obligatory. International observers noted boys were prioritized for high school education in rural communities due to the need to travel long distances and girls' perceived value in the home. UNICEF noted improvements in school feeding programs that increased access to nutrition for underserved communities and celebrated the government's October reforms to the school nutrition program that increased expenditures on elementary and pre-elementary school feeding programs by 50 percent per student.

**Child Abuse:** Child abuse remained a serious problem. A unit under the Office of the Special Prosecutor for Crimes against Children and Adolescents handled child abuse cases. The Public Ministry opened an integrated 24-hour care model providing medical, psychosocial, and legal support to children and adolescent victims of violence. The ministry reported 2,250 reports of abuse of minors of all types, approximately 1,700 fewer than in 2020. The ministry reported 48 convictions for child abuse from January through August, compared with 14 during the same period in 2020.

**Child, Early, and Forced Marriage:** The legal age for marriage is 18. The National Registry of Persons reported no attempts to register new underage marriages. Registry officials, however, reported they registered nine underage marriages unreported from previous years, all of which were entered before the 2017 prohibition of underage marriage took effect.

**Sexual Exploitation of Children:** The law provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for engaging in sex with a minor. The minimum age of consensual sex is 18.

The law prohibits child pornography and establishes penalties of six to 10 years in prison for producing, promoting, and selling child pornography and two to four years' imprisonment for possessing it. The Public Ministry and the PNC conducted several raids against alleged online child pornography networks. The

Regional Unit against Trafficking in Persons, responsible for eight departments in the Western Highlands and launched in 2018, expanded the government's investigative capacity against child pornography offenders. The commercial sexual exploitation of children, including child sex tourism, remained a problem, including in privately run orphanages. The COVID-19 pandemic forced most schools to operate virtually. According to SVET this led to more children spending unsupervised time online, which led to increased online exploitation of children. In July the PNC, acting on information from Interpol, rescued eight children from a child pornography trafficking ring in Zacapa.

**Displaced Children:** Criminals and gangs often recruited street children, many of them victims of domestic abuse, for purposes of theft, extortion, commercial sexual exploitation, transporting contraband, and conducting illegal drug activities.

**Institutionalized Children:** More than 800 children and adolescents lived in shelters operated by the Secretariat for Social Welfare (SBS).

Overcrowding was common in both private and SBS shelters, and government funding for orphanages remained limited. The SBS reported there were no infrastructure improvements during the year, but that Hogar Esperanza, a state-run shelter, adjusted staffing to maintain specialized personnel. International human rights organizations reported Hogar Esperanza was housing children in spaces that resembled cages and that there was a clear need for reform to care adequately for children with disabilities. Observers also stated private shelters were often better than SBS shelters.

A criminal court set the date for public arguments in the Hogar Seguro fire case for March 2022. Hogar Seguro is a state-run orphanage under the authority of the SBS. Former SBS secretary Carlos Rodas and former deputy secretary for protection and shelter services Anahi Keller remained in pretrial detention with four others on charges of murder, abuse of authority, breach of duty, and abuse against minors following the deaths of 41 girls in the 2017 fire at the Hogar Seguro orphanage.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the



Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish population numbered approximately 1,500. Jewish community representatives reported no anti-Semitic incidents as of November.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

Discrimination against persons with disabilities continued to be a problem, with such persons experiencing discrimination based on the specific disability, gender, age, place of residency, and sexual orientation, among others. These factors combined with lingering effects of the COVID-19 pandemic made it more difficult for persons with disabilities to exercise their rights.

Persons with disabilities were unable to access education, health services, public buildings, and transportation on an equal basis with others. No law requires such access, nor does the law mandate that persons with disabilities have access to information or communications.

Children with disabilities attended school at all levels at a significantly lower rate than other children; most did not attend school at all.

Persons with disabilities experienced violence, harassment, intimidation, and abuses, including incidents incited, perpetrated, or condoned by government officials such as police, medical professionals, and personal attendants and staff at institutions. Persons with disabilities, especially underrepresented groups, experienced higher levels of violence and abuse, including sexual assault. According to the Public Ministry, from January 2019 to June 7, a total of 826 persons with disabilities were registered as victims in a criminal or civil cases or

complaints, of which 729 were aggravated assault cases (88 percent). Of these, 64 percent of victims were women and 36 percent men; 21 percent were minors and 9 percent were older than 60. Of the cases in which women with disabilities were injured, 61 percent involved gender-based violence.

Nongovernmental organizations that advocate for persons with disabilities reported the government violated the right to education for students with disabilities, especially those with intellectual disabilities. Reports indicated the lack of access to resources and technologies, such as internet connectivity and computers, caused the deficiency in virtual education during COVID-19 shutdowns, especially in rural and poor areas. Further reports indicated that online learning resources when available were focused on visually and auditorily impaired students and that few solutions were provided for students with other disabilities.

Observers noted little progress was made in access to voting for persons with disabilities. Mechanisms for persons with intellectual disabilities did not exist. Voting in braille existed, but it did not guarantee secret voting.

## **HIV and AIDS Social Stigma**

The law prohibits discrimination based on HIV/AIDS status. Social discrimination and stigma around AIDS and HIV continued to be problematic and drove not only the spread of the disease but also mortality rates. Some government authorities required citizens to reveal HIV/AIDS test results to receive certain public benefits, and some employers required similar disclosure to be hired.

Discrimination against LGBTQI+ persons with HIV or AIDS was particularly common and affected access to HIV-prevention programs, especially for transgender individuals.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

Extreme violence against LGBTQI+ persons remained a persistent issue and escalated during the year. According to an annual report from the Lambda Association, there were 17 killings of LGBTQI+ persons from January to July in which the violence could plausibly be linked to the victims' sexual orientation or

gender identity. The Lambda Association also reported that most homicides and general crimes of prejudice against LGBTQI+ persons occurred either in the capital, Guatemala City, or in Izabal. In June three of the 17 killed were killed in the span of one week. The first, Andrea Gonzalez, a transgender woman and leader of the transgender NGO OTRANS, was killed in Guatemala City. The second, also a member of OTRANS, Cecy Caricia Ixtapa, was killed in the interior of the country. Government authorities originally reported Ixtapa's death as caused by complications from cancer, but her family members and members of OTRANS reported she was attacked by two unknown assailants. The third of the June killings was a gay man who was shot and killed in Morales, Izabal.

Openly gay and HIV-positive congressman Aldo Davila reported death threats because of his public denunciations of corrupt officials. The threats often included harassing mentions of his sexual orientation.

According to NGOs that work on gender matters, the government reversed progress in recognition and acceptance of sexual and gender diversity, as evidenced by the minister of education cancelling a public-school module that taught sexual diversity and the increased discrimination against sexual education overall as ordered in the *Executive Policy of the Protection of Life and the Family* announced by President Giammattei in July.

LGBTQI+ advocates pointed to structural problems that created internal displacement, discrimination, sexual exploitation, and child abuse among members of the community. The largest of these remained government-issued national identification cards that are used to access basic services and education resources but that do not allow transgender persons to receive identification cards with their chosen names or correct gender identification. Without identification that reflected the name and gender under which they lived, transgender persons were denied many government services.

LGBTQI+ groups claimed lesbian, bisexual, and queer women experienced specific forms of discrimination, such as forced marriages and "corrective" rape intended to cause pregnancy, although these incidents were rarely, if ever, reported to authorities.

According to LGBTQI+ activists, gay and transgender individuals often experienced police abuse. LGBTQI+ human rights groups stated, for example, that police regularly engaged in extortion and harassed male and transgender individuals whom they alleged to be sex workers.

Lambda and other LGBTQI+ organizations reported a lack of will on the part of police to investigate fully hate crimes and violence against LGBTQI+ persons. The law does not extend specific antidiscrimination protections to LGBTQI+ individuals based on their sexual orientation, gender identity or expression, or sex characteristics.

There was general societal discrimination against LGBTQI+ persons in access to education, health care, employment, and housing. The government made minimal efforts to address this discrimination.

## **Other Societal Violence or Discrimination**

On several occasions vigilante mobs attacked and killed those suspected of crimes such as rape, kidnapping, theft, or extortion. The NGO Mutual Support Group reported five persons were killed and 62 injured in vigilante groups from January through August. The NGO stated these took place mostly in interior departments of the country with weak law enforcement structures and that the increase of incidents resulted from the lack of stay-at-home orders, compared with the previous year.

On June 24, the three defendants accused of the murder of Domingo Choc were found guilty and sentenced to 20 years in prison. Choc, an indigenous spiritual guide, was tortured and killed in Peten in June 2020. The lawyer for Choc's family, Juan Castro, publicly maintained that the case had a cultural and religious component, but the judge treated the case as a simple murder. Castro stated that the judge did not consider as an aggravating circumstance that the murder was motivated by a witchcraft accusation against Choc, when in fact he was a Mayan scholar and researcher of ancient medicinal plants. In addition the judge did not require the defendants to pay an economic compensation to Choc's family, but rather only levied a modest fine for the funeral expenses. In November Castro challenged the ruling, and the court scheduled the appeal hearing for February

2022.

On January 4, unknown assailants tortured and killed Mayan spiritual guide Jesus Choc Yat in Quiche. As of November the PNC had not made an arrest. Critics denounced the lack of movement on the case as a further demonstration of the continued discrimination and impunity for attacks on Mayan spiritual practices throughout the country, even after the high-profile murder of Domingo Choc and the subsequent trial of his killers.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers, except for security force members, to form and join trade unions, conduct legal strikes, and bargain collectively. The law, however, places some restrictions on these rights. For example, legal recognition of an industrywide union requires that the membership constitute a majority of the workers in an industry and restricts union leadership to citizens. Ministries and businesses are required to negotiate only with the largest union, as determined by annual membership. The law prohibits antiunion discrimination and employer interference in union activities and requires employers to reinstate workers dismissed for organizing union activities. A strike must have the support of the majority of a company's workforce. Workers are not restricted to membership in one union or one industry.

The president and cabinet may suspend any strike deemed gravely prejudicial to the country's essential activities and public services. The government defined essential services more broadly than international standards, thus denying the right to strike to many public workers, such as those working in education, postal services, transport, and the production, transportation, and distribution of energy. Public employees may address grievances by means of conciliation for collective disputes and arbitration directly through the labor courts. For sectors considered essential, arbitration is compulsory if there is no agreement after 30 days of conciliation. In the maquila sector, employees organized work stoppages particularly around occupational health and safety issues and failure to pay workers during the pandemic; however, these work stoppages did not rise to the level of

strikes as officially recognized by the government or labor rights NGOs. In September and October, there were work stoppages in Puerto Quetzal and Santo Tomas de Castillo ports. In the case of Puerto Tomas de Castillo, police used force to remove workers from blocking entrances to the factory as part of the work stoppage, and after the work stoppage several union leaders were fired.

The law prohibits employer retaliation against workers engaged in legal strikes. If authorities do not recognize a strike as legal, employers may suspend or terminate workers for absence without leave. A factory or business owner is not obligated to negotiate a collective bargaining agreement unless at least 25 percent of workers in the factory or business are union members and request negotiations. Once a strike occurs, companies are required to close during negotiations. Strikes were extremely rare, but work stoppages were common.

The government did not effectively enforce the law. Government institutions, such as the Ministry of Labor and the labor courts, did not effectively investigate, prosecute, or punish employers who violated freedom of association and collective bargaining laws. Penalties were not commensurate with those for other laws involving denials of civil rights, such as discrimination. Labor courts also failed to compel compliance with reinstatement orders, including payment of back wages, for workers illegally dismissed for engaging in union activities, especially in the rural areas. There was a substantial backlog of cases in the labor courts that caused delays of up to three years per case. The Public Ministry was ineffective in responding to labor court referrals for criminal prosecution in cases where employers refused to comply with labor court orders. In the labor inspection system and the labor courts, employers routinely influenced authorities to favor their interests or simply refused to comply. According to the Special Prosecutor's Office for Crimes Against Unionists, 70 percent of complaints in 2020 involved persistent employer refusal to comply with judicial orders.

The Ministry of Labor has the authority to sanction employers for violating union and collective bargaining rights. Business groups complained the time frame to investigate and verify compliance with Ministry of Labor remediation orders was too short and resulted in more cases being referred to the labor courts without an opportunity to conciliate. Worker representatives reported no significant improvement in compliance with the law because of the new sanction authority,

noting that the inspectorate emphasized collection of fines, which during the year went to the labor inspectorate, over remediation of the underlying violations. Lack of information about the law's implementation made it difficult to assess its impact on improving labor law enforcement.

The Unit for Crimes against Unionists within the Office of the Special Prosecutor for Human Rights in the Public Ministry was responsible for investigating attacks and threats against union members as well as for noncompliance with judicial orders in labor cases. Staffing for the unit remained stagnant, and successful prosecutions remained a challenge exacerbated by the pandemic.

The National Tripartite Commission on Labor Relations and Freedom of Association encouraged social dialogue between the Ministry of Labor, unions, and businesses, and monitored and facilitated implementation of the 2013 ILO roadmap and its 2015 indicators.

Three subcommissions established under the National Tripartite Commission – on legislation and labor policy, on mediation and dispute settlement, and on implementation of the roadmap – met in April. After being inactive in the first quarter of 2020, the National Tripartite Commission met virtually after March 2020. As of November the Ministry of Government did not convene the Interagency Committee to Analyze Attacks against Human Rights Defenders, including trade unionists, on a regular basis due to the pandemic.

An additional commission, the Trade Union Permanent Commission for Protection, which was supposed to be convened by the Public Ministry to address problems of antiunion violence, held no meetings. As of November this commission had not held regular meetings since 2018.

Procedural hurdles, restrictions on and delays in forming unions, and impunity for employers rejecting or ignoring court orders limited freedom of association and collective bargaining. The Labor Ministry reopened during the year after closing because of COVID-19 restrictions, but its labor rights enforcement performance did not improve. According to NGOs, the General Inspectorate of Labor failed to ensure that workers who formed new unions were protected from termination as per Article 209, frequently failing to notify the companies of the formation of the

union and the prohibition against firing the founders or failing to do so in the timeframe required by law. The General Directorate of Labor also failed to emit resolutions of requests for union registration in the prescribed timeframe, per Article 218 (e) that requires the directorate to respond to the request for certification within 20 days of receiving the request.

An emblematic case was the formation of the union of Hoosier manufacturing workers. The workers formed a union and presented their request for notification of the prohibition of termination and their request for certification on August 1 to the Ministry of Labor. Receiving no response from the ministry, they followed up their request in writing on September 22, asking that the company be notified of the formation of the union and that the directorate act on the request for certification. The government notified the employer of the workers' intention to register a union on November 2, more than 80 days after the workers' application to register. By law the government should have notified the employer within 48 hours of the request by the union.

From January to September, an NGO registered one case of kidnapping, one death threat, and 32 acts of criminalization against trade unionists and labor activists. Authorities did not thoroughly investigate most acts of violence and threats and often discarded trade union activity as a motive from the outset of the investigation, allowing these acts to go unprosecuted. Several labor leaders reported death threats and other acts of intimidation. The Special Prosecutor's Office for Crimes against Judicial Workers and Unionists reported that from January to August, it had received 53 complaints of crimes or offenses against trade unionists and labor activists.

Labor rights defenders noted an increase in reported cases, including mass firings, use of force against collective action, criminalization of worker protest, and disguised violence using gang members to commit workplace threats and violence at the employers' request.

Employers routinely resisted attempts to form unions, delayed or only partially complied with agreements resulting from direct negotiations, and ignored judicial rulings requiring the employer to negotiate with recognized unions. There continued to be credible reports of retaliation by employers against workers who



tried to exercise their rights, including numerous complaints filed with the Ministry of Labor and the Public Ministry alleging employer retaliation for union activity, according to an NGO. Employers who were found in violation of respecting union rights increased alleged noncompliance accusations on employees involved in union organizing. A 2020 labor rights defenders' report noted that 70 percent of the claims before the Public Ministry concerning labor violations were for failure on the part of the employers to respect a judicial order in the labor case. The failure of the authorities to enforce labor laws resulted in complaints of retaliation against union members by employers to languish. Local unions reported businesses used fraudulent bankruptcies, ownership substitution, and reincorporation of companies to circumvent legal obligations to recognize newly formed or established unions, despite legal restrictions on such practices.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government failed to enforce the law effectively. Reports persisted of men and women subjected to forced labor in agriculture and domestic service. Penalties were not commensurate with those for other analogous serious crimes, such as kidnapping. Criminal penalties for forced labor range from eight to 18 years' imprisonment and a fine. The government has specialized police and prosecutors who handle cases of human trafficking, including forced labor, although local experts reported some prosecutors lacked adequate training. There were also reports of forced child labor in agriculture, production of garments, domestic work, street begging, making corn tortillas, and vending (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law does not prohibit all the worst forms of child labor. The Ministry of Labor regulations set the minimum age for employment at 15 years. The law bars employment of minors younger than age 15, but it also allows the Ministry of Labor to authorize children younger than 15 to work in exceptional cases. The law prohibits persons younger than 18 from working in places that serve alcoholic

beverages, in unhealthy or dangerous conditions, at night, or beyond the number of hours permitted. The legal workday for persons younger than 14 is six hours; for persons 14 to 17, it is seven hours. Child labor was nonetheless prevalent in the agricultural sector, in dangerous conditions, and generally with parents' knowledge and consent.

The Ministry of Labor's Child Worker Protection Unit is responsible for enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors. Penalties were not commensurate with those for analogous serious crimes, such as kidnapping. The government did not effectively enforce the law, a situation exacerbated by the weakness of the labor inspectorate and labor court systems. The government devoted insufficient resources to prevention programs.

The NGO Conrad Project Association of the Cross estimated the workforce included approximately one million children ages five to 17. Most child labor occurred in rural indigenous areas of extreme poverty. The informal and agricultural sectors regularly employed children younger than 14, usually in small family enterprises, including in the production of broccoli, coffee, corn, fireworks, gravel, and sugar. Indigenous children also worked in street sales and as shoe shiners and bricklayer assistants. The Pan American Defense Fund published a report in July on tortilla-making shops in urban centers in five different departments employing underage indigenous girls. The report found that more than one-half of the girls worked more than 15 hours per day, worked in departments outside of where their families were, and were mostly paid less than the legal minimum wage. According to the report, the parents of the underage girls working in these shops often gave permission for the girls to work in these shops and took their salaries for household expenses.

Traffickers exploited children in forced begging, street vending, and as street performers, particularly in Guatemala City and along the border with Mexico. Traffickers particularly targeted indigenous individuals, including children, for forced labor, including in tortilla-making shops. Criminal organizations, including gangs, exploited girls in sex trafficking and coerced young males in urban areas to sell or transport drugs or commit extortion.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law explicitly prohibits discrimination with respect to employment or occupation based on race, color, sex, religion, political opinion, national origin or citizenship, age, and disability. The government did not effectively enforce the law and related regulations. Penalties were not commensurate with laws related to civil rights, such as election interference. Discrimination in employment and occupation occurred. Anecdotally, wage discrimination based on race and sex occurred often in rural areas. Upon returning to Guatemala, some deportees had difficulty joining the workforce and were discriminated against, for suspicion of being involved in gang activity.

#### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law sets national minimum wages for agricultural and nonagricultural work and for work in garment factories. The minimum wages for agricultural and nonagricultural work and for work in export-sector-regime factories did not meet the minimum food budget for a family of five.

The Ministry of Labor conducted some inspections to monitor compliance with minimum wage law provisions but often lacked the means of transportation for proper enforcement. The legal workweek is 48 hours with at least one paid 24-hour rest period. The law prohibits workers from working more than 12 hours a day. The law provides for 12 paid annual holidays and paid vacation of 15 working days after one year's work. Daily and weekly maximum hour limits do not apply to domestic workers. Workers in the formal sector receive the standard pay for a day's work for official annual holidays. Time-and-a-half pay is required for overtime work, and the law prohibits excessive compulsory overtime.

Labor inspectors reported uncovering numerous instances of overtime abuse, but effective enforcement was undermined due to inadequate fines and labor courts'

reluctance to use compulsory measures, such as increased fines and referrals to the criminal courts, to obtain compliance. During the pandemic these problems worsened as the labor courts closed to the public, performing minimal administrative duties as officials tried to work from home. Other factors contributing to the lack of effective enforcement included labor court inefficiencies, employer refusal to permit labor inspectors to enter facilities or provide access to payroll records and other documentation, and inspectors' lack of follow-up inspections in the face of such refusals.

Trade union leaders and human rights groups reported employers required workers to work overtime without legally mandated premium pay. Management often manipulated employer-provided transportation to worksites to force employees to work overtime, especially in export-processing zones located in isolated areas with limited transportation alternatives. Noncompliance with minimum wage provisions in the agricultural and informal sectors was widespread. Advocacy groups estimated most workers in rural areas who engaged in daylong employment did not receive the wages, benefits, or social security allocations required by law. Many employers in the agricultural sector reportedly conditioned payment of the minimum daily wage on excessive production quotas that workers generally were unable to meet. To meet the quota, workers believed themselves compelled to work extra hours, sometimes bringing family members, including children, to help with the work. Because of having to work beyond the maximum allowed hours per day, workers received less than the minimum wage for the day and did not receive the required overtime pay.

Local unions highlighted and protested violations by employers who failed to pay employer and employee contributions to the national social security system despite employee contribution deductions from workers' paychecks. These violations, particularly common in export and agricultural industries, resulted in limiting or denying employees' access to the public health system and reducing or underpaying workers' pension benefits during their retirement years.

Many employers of domestic servants routinely paid less than minimum wage, failed to register their employees with the Guatemalan Institute of Social Security, and demanded 16-hour days for six or more days a week for live-in staff. Many of these same employees were summarily dismissed at the beginning of the pandemic

or advised to stay in the home of their employer without traveling back to their own families or communities due to concern about spreading the virus. An undetermined number of dismissed employees returned to their previous employers as conditions stabilized.

**Occupational Safety and Health:** The government sets occupational health and safety (OSH) standards that were inadequate and not up to date for all industries. The government did not effectively enforce OSH laws. Penalties for OSH violations were not commensurate with those for crimes such as negligence. The situation worsened during the pandemic and labor experts reported on some employers from the apparel industry not providing personal protective equipment and ignoring COVID-19 safety guidelines. The law does not provide for the right of workers to remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Ministry of Labor obtained 28 new vehicles, using private donations, to provide transportation for inspectors in all 22 departments of the country, including four vehicles for Guatemala City. These vehicles had yet to be deployed as of November but were needed, since inspectors often lacked vehicles or fuel to carry out inspections, and in some cases they failed to take effective action to gain access to worksites in response to employers' refusal to permit labor inspectors access to facilities. Inspectors were encouraged to seek police assistance as required. Inspections were generally not comprehensive, and if complaint driven, focused on investigating the alleged violation rather than attempting to maximize limited resources to determine compliance beyond the individual complaint. The ministry did not employ enough labor inspectors to deter violations, and many of them performed reviews on paper or administrative duties rather than clearly defined inspection duties. Although the labor inspectorate hired seven additional officers and started the process to hire seven more, the number of inspectors was still insufficient to successfully enforce labor law.

In July the ministry reopened its in-person service windows in Guatemala City to receive labor complaints. During the pandemic the ministry had closed its offices to the public, and workers were unable to present complaints in person; however, the ministry opened a call center and created a website to receive labor violation complaints remotely. The ministry established a hotline to receive complaints, but

workers stated that often no one answered their calls. The ministry later developed a web portal for complaints, but not all workers had access to internet. The number of inspections conducted decreased during the pandemic.

Due to inefficient and lengthy court proceedings, the resolution of labor court cases was often delayed, in many instances for several years. Employers failing to provide a safe workplace were rarely sanctioned, and a law requiring companies with more than 50 employees to provide onsite medical facilities for their workers was not enforced.

**Informal Sector:** According to ILO statistics, 74 percent of the workforce worked in the informal sector and outside the basic protections afforded by law. Types of informal work include street and market vendors, recyclers and trash pickers, day laborer construction workers, day laborers, and short-term (20 to 30 day) agricultural workers usually hired through recruiters and without a labor contract or direct-hire relationship with the employer.

Informal economy workers had no formal labor relationship that would make them subject to labor law. They were not directly hired by an employer and were not subject to wage, hour, OSH, or inspection laws. They were not subject to Social Security and had no way to accumulate credits for health care or pension. There were no government entities that provided social protections for informal economy workers.